

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14153, of John Brazil, et al., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the parking requirements (Sub-section 7202.1) to convert an existing five unit apartment house to six units in an R-4 District at premises 1434 Potomac Avenue, S.E., (Square 1064, Lot 28).

HEARING DATE: June 27, 1984
DECISION DATE: June 27, 1984 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located on the north side of Potomac Avenue, S.E. on the west side of a multiple intersection involving G Street, Kentucky Avenue, and 15th Street, S.E. The site is in an R-4 District and is known as premises 1434 Potomac Avenue, S.E.

2. The subject lot has the shape of an irregular six-sided figure. The lot frontage on Potomac Avenue on the south is 49.89 feet. The lot frontage on G Street on the north is 55.45 feet. The width of the lot on its east side is sixteen feet. The lot widens at its western end and has three short sides on the west, whose lengths are 24.31, sixteen and approximately fifteen feet. The average lot width is twenty-seven feet. The area of the lot is 1,535 square feet. The subject lot is a through lot.

3. The subject site is improved with a brick, three-story apartment structure. The structure has been unoccupied since approximately 1972 and is in need of repairs.

4. There is access to and from the subject site through Potomac Avenue on the south and through G Street on the north. The lot is in a corner location with no alley access.

5. The subject neighborhood is developed primarily with rowhouses and a few apartment buildings. Throughout the neighborhood there is a renovation effort in progress. The area is zoned R-4 on the north, east and west of the site. The area south of the site is zoned C-2-A and is a part of the Pennsylvania Avenue commercial strip that services the Capitol Hill Historic District. The western one-third of the subject square is the site of the Potomac Avenue Metro Station. The eastern two-thirds of the

square is developed with row dwellings and the subject apartment structure.

6. The subject structure was constructed in approximately 1890, at a time when there were no Zoning Regulations. The structure occupies approximately 96.92 percent of the site and is a nonconforming structure. The maximum permitted lot occupancy is forty percent or 614 square feet, whereas the lot occupancy of the existing structure is 1,487.7 square feet. The minimum required lot area is 4,000 square feet, whereas the existing lot area is 1,535 square feet. The existing average lot width of twenty-seven feet is less than the minimum required width of forty feet. Since the lot is a through lot, the depth of the rear yard is measured from the center of the street abutting the lot at the rear of the structure. In the subject case, the rear yard measures fifty feet.

7. The applicant proposes to renovate the structure for use as a residential condominium with six units. The applicant purchased the property approximately six months before the public hearing. The property was formerly used as five apartment units with a retail grocery store called the Wimbish Market on the first floor. The applicant proposes to convert the space formerly occupied by the Wimbish Market into a sixth apartment unit.

8. There would be no external changes in the historic facade except for the creation of new windows to accommodate the sixth unit and the closing of some other windows. All other renovation work would be done inside the structure.

9. The conversion of the subject property from five units into six units would require the provision of one parking space under the requirements of Sub-section 7202.1. The requirement is for one parking space per three dwelling units. The subject site has a parking credit of one space because the site had formerly been used for five units and had no parking. The addition of one unit creates the need for one additional space.

10. The applicant is seeking a variance from the requirements of Sub-section 7202.1 in order to permit the conversion of the subject site to six apartment units.

11. The Board of Zoning Adjustment has the power to grant area variances provided that the applicant makes a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographic conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it

will not substantially impair the intent and purpose of the zone plan.

12. The subject site has no open space large enough to accommodate a nine foot by nineteen foot on-site parking space. The 96.92 percent lot occupancy of the subject structure has reduced the rear and side yards to narrow strips of land. The rear of the site is on the G Street side of the lot and the rear yard is measured as one-half the width of G Street.

13. The applicant is anxious to move forward with the proposal because interest rates are rising. The applicant is financially able to proceed at this time and has applied for building permits in the hope that the BZA application will be approved.

14. The applicant further argued that the renovation of the 1890's structure will bring six refurbished residential condominium units to the neighborhood and will replace a vacant eyesore with a viable use. The renovations will bring the structure into compliance with Building Code requirements for light and ventilation which the six units could not meet without the proposed new windows.

15. The Board has previously granted the same relief for the subject property in BZA Order No. 12661, dated August 21, 1978. The applicants in that case were unable to proceed with construction because the interest rates rose before they could make final plans to begin construction. After holding the property for approximately five years, the former applicants sold the property to the present applicant. The relief requested in this application is exactly the same as that granted in BZA Order No. 12661.

16. Advisory Neighborhood Commission 6B, by letter dated June 19, 1984, reported that it had resolved to take no position on the application. The ANC took this position inasmuch as the applicant was not present at the meeting that the ANC held on June 19, 1984, and inasmuch as the Commission is not on record as taking the same position in June, 1978. The applicant advised the Board that he was unaware of the ANC meeting. The Board is required by statute to give great weight to the issues and concerns of the ANC only when such are reduced to a written recommendation. There is no recommendation on this application.

17. The Capitol Hill Restoration Society, Inc., by letter dated June 26, 1984, reported that the Society had voted to support the application. The Society noted that the last use of this building was for five apartments with a grocery store on the ground floor. If this were the continuing use of the building, no parking space would need to be provided. The addition of one apartment unit leads to the

parking requirements. The building covers ninety percent of the lot, leaving about 154 square feet which is not enough for a standard nine feet by nineteen feet parking space. There is also no alley access to the property. The unusual shape of the lot, added to the fact that it is undersized, creates the practical difficulty justifying this requested variance. Further, the application is in harmony with the general purpose and intent of the Zoning Regulations by restoring the property entirely to R-4 use. The Society further noted that the BZA approved a similar request for a variance in 1978, but the then-applicant failed to secure a permit within the allotted time. The Society was of the opinion that the BZA acted correctly in 1978 and recommended that the Board approve the requested variance. The Board concurs with the reasoning and the recommendations of the Capitol Hill Restoration Society, Inc.

18. A letter with the signatures of nine neighbors was submitted to the record in support of the application. Five of the neighbors indicated that they were the owners of their residences. The neighbors noted that they all live directly opposite the rear of the subject structure. The neighbors were strongly in favor of the proposed conversion of this building. They reported that for many years, the empty building has been both an eyesore and a hazard to the neighborhood. It had been a shell full of broken windows surrounded by unmowed grass and weeds littered with trash and broken glass. It had been a hazard because the building has been used frequently as shelter for derelicts and drug addicts. The supporting neighbors would all be pleased to have this building turned into five or six usable apartments. If the city continues to enforce the residential parking regulations, the supporters could not see that the additional cars on the street will be more of a problem than the neglected building. The supporters' greatest fear was that if the Board denies this current request, the present owners, or future owners will decide that the conversion project is economically unfeasible and will leave the area with this unsightly, dangerous eyesore. The Board concurs with the recommendations of the neighbors in support.

19. There was no opposition to the application either at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographic conditions. The Board must further find that the relief requested can be granted without

substantial detriment to the public good and that it will not substantially impair the intent and purpose of the zone plan.

The Board concludes that the applicant has met this burden of proof in showing a practical difficulty inherent in the property. The irregular shape of the subject lot and the fact that the existing structure has a lot occupancy of approximately 96.92 percent are exceptional conditions that create a practical difficulty. The lack of open space at the rear and sides of the existing dwelling renders it impossible to provide the required on-site parking. There is no alley access to the site.


The Board concludes that granting the proposed variance from the parking requirements will not cause substantial detriment to the public good and that it will not substantially impair the intent and purpose of the zone plan. The proposed parking variance will permit the renovation of a dilapidated and vacant structure for residential use and will contribute to the revitalization of the subject neighborhood. The Board also notes the lack of opposition to the application and the strong support of the neighborhood residents.

Accordingly, it is hereby ORDERED that the application is GRANTED.

VOTE: 4-0 (Walter B. Lewis, Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 27 AUG 1984

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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